CMPMO No.121/2007 & CMPMO No. 150/2007.

16.7.2007. Present: Mr. C.B. Singh, Advocate, for the petitioner in CMPMO No.121/2007.

Mr. Sanjeev Kuthiala, Advocate, for respondent No.1 in CMPMO No.121.2007 and for the petitioner in CMPMO No.150/2007.

With the consent of the parties by this common order both the petitions are being disposed of together.

The parties agree that in both these cases, with their consent the following agreed order be passed and the petitions disposed of finally at this stage. I order accordingly.

1. Both the suits, one filed by Smt. Yadvindri, petitioner in CMPMO No. 121/2007 and the other filed by Shri Gajender Pal Guleria, petitioner in CMPMO No.150/2007 shall be clubbed together and be tried by one Court, i.e. the Court of Civil Judge (Junior Division), Court No.1, Mandi.

2. Fresh demarcation be conducted by the Assistant Collector Grade-I, Mandi with respect to the properties forming the subject matter of the aforesaid two suits. I direct the Assistant Collector Grade-I, Mandi to ensure that the process of the fresh demarcation is completed within one month from the date this direction, along

with a copy of this order is communicated to the Assistant Collector Grade-I, Mandi by the petitioner Smt. Yadvindri in CMPMO No.121 of 2007. Mr. C.B. Singh, learned counsel undertakes to convey this direction to the Assistant Collector Grade-I within 10 days from today.

3. The Assistant Collector Grade-I after completion of the fresh demarcation shall submit his report along with all documents to the learned Civil Judge (Junior Division) Court No.1, Mandi.

4. Till the aforesaid report is received, both the suits shall lie over. No effective proceedings shall be taken in the suits during this period. Immediately on receipt of the report, the learned Court below shall proceed in the suits by taking all appropriate, effective steps in the direction of the disposal of the suits in accordance with law.

5. Until the report of fresh demarcation is received by the learned Court below, status quo as existing on date with respect to the properties forming the subject matter of the two suits shall be maintained by the

parties. Depending upon the contents of the report of fresh demarcation, it shall be open to either party in the aforesaid two suits to file fresh application(s) for interim relief. The applications filed by the parties for temporary injunction in both the suits in the past shall stand disposed of.

6. If in the meanwhile either party in any of the aforesaid suits thinks that because of the current Monsoon season his or her property is in any imminent danger, he or she may file an appropriate application in the trial Court for grant of interim relief in the meanwhile. If such an application is received by the trial Court it shall immediately proceed to appoint a Local Advocate Commissioner, assisted by a Civil Engineer of HP PWD of the rank of Junior Engineer who shall visit the site and submit report to the learned Court below. Based on the contents of the report, the learned Court below may in its judicial discretion grant or refuse interim relief in the meanwhile.

In view of the aforesaid, the impugned order is set aside. Both the petitions are disposed of. The parties

through their learned Counsel are directed to appear before the learned Court below in both the suits for obtaining appropriate directions on 6th August, 2007.

CMP No.401/2007 in CMPMO No.121/2007.
CMP No.485/2007 in CMPMO No.150/2007.

In view of the disposal of the main petitions, both the applications shall stand disposed of.

16th July, 2007. (V.K. Gupta), C.J.
(tr)